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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,505	07/11/2003	John G.E. Schmidt	2511	6576
7590	11/03/2006		EXAMINER [REDACTED]	WOOD, WILLIAM H
Beck & Tysver, P.L.L.C. Suite 100 2900 Thomas Avenue S. Minneapolis, MN 55416			ART UNIT [REDACTED]	PAPER NUMBER 2193

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/618,505	SCHMIDT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William H. Wood	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 11 July 2003.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-12 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-12 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 09/30/2004.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

Claims 1-12 are pending and have been examined.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 recites the limitation "assembly process". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 9-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 9 fails to produce a useful, concrete and tangible result. For example, the last step of the method is performed, but no result is produced. Claim 10 is an abstract concept and as such is not eligible for patenting. For example, the desktop environment on

a computer is not a real and actual top of a desk. The same is true for the factory and assembly line of the claims 10-12.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kret** (USPN 4,751,635) in view of **Ross, Jr.** et al. (USPN 6,629,135).

**Claim 1**

**Kret** disclosed a method of creating a [software] in a factory (*column 7, lines 25-27; figures 1-2B*), the method comprising:

designing the [software] with a designer and a quality controller to produce a design (*column 1, line 61 to column 2, line 7; column 5, lines 10-13; column 5, lines 48-49, host computer is the quality controller*), wherein the designing includes reference to a knowledge base (*column 5, lines 48-50*); developing the design with a developer and the quality controller to produce a requested [software] (*column 1, line 61 to column 2, line 7; column 5, lines 10-13; column 5, lines 48-49*);

testing the requested [software] with a tester and the quality controller to produce a completed [software] (*column 1, line 61 to column 2, line 7; column 5, lines 10-13; column 5, lines 48-49*).

**Kret** did not explicitly state middleware adapter as the software. **Ross, Jr.** demonstrated that it was known at the time of invention to make use of middleware adapters in large software projects (column 18, lines 35-51). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the large software projects of **Kret** with middleware adapters as found in **Ross, Jr.**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to make all software modules of a large and diverse system available for effective communication (column 18, lines 40-41) in an easy to develop manner (column 18, lines 44-47).

Claim 2

**Kret** and **Ross, Jr.** disclosed the method of claim 1 wherein the designing a middleware adapter is one of designing a new middleware adapter and modifying an existing middleware adapter (**Kret**: *column 1, lines 60-61*).

Claim 3

**Kret** and **Ross, Jr.** disclosed the method of claim 1 wherein the middleware adapter is included in an adapter environment, and the factory is remotely

located from but operably coupled to the middleware environment (*column 2, lines 7-9*).

Claim 4

**Kret and Ross, Jr.** disclosed the method of claim 3 wherein the testing is performed at the factory and at the adapter environment (*column 2, lines 7-9*).

Claim 5

**Kret and Ross, Jr.** disclosed the method of claim 1 wherein the knowledge base includes a repository and a plurality of input tools (*figure 3, elements 42 and 43; and figure 3, elements 50*).

Claim 6

**Kret and Ross, Jr.** disclosed the method of claim 5 wherein the knowledge base includes an input/output tool (*figure 3, elements 50*).

Claim 7

**Kret and Ross, Jr.** disclosed the method of claim 6 wherein the input/output tool is a design specification tool (*column 1, line 61 to column 2, line 7*).

Claim 8

**Kret and Ross, Jr.** disclosed the method of claim 5 wherein the input tools

include an engagement tool, a requirements tool, and a technical specifications tool (*column 1, line 61 to column 2, line 7*).

Claim 9

**Kret** disclosed a method of creating a [software] in a factory (*column 7, lines 25-27; figures 1-2B*), the method comprising:

analyzing a request for an [software], wherein analyzing the request includes determining whether the request is for a new [software] or for modifications to an existing [software] (*column 2, lines 27-31*);

designing the [software] with a designer and a quality controller to produce a design, wherein the designing includes reference to a knowledge base (*column 1, line 61 to column 2, line 7; column 5, lines 10-13; column 5, lines 48-49, host computer is the quality controller; column 5, lines 48-50*);

developing the design with a developer and the quality controller to produce a requested [software], wherein the developing includes coding the design, unit testing the requested adapter, and updating the knowledge base (*column 1, line 61 to column 2, line 7; column 5, lines 10-13; column 5, lines 44-50; figure 3, elements 420 and 430*);

integration testing the requested adapter (*column 2, lines 7-9*); and system testing the requested adapter (*column 2, lines 7-9*).

**Kret** did not explicitly state middleware adapter. **Ross, Jr.** demonstrated that it was known at the time of invention to make use of middleware adapters in

large software projects (column 18, lines 35-51). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the large software projects of **Kret** with middleware adapters as found in **Ross, Jr.**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to make all software modules of a large and diverse system available for effective communication (column 18, lines 40-41) in an easy to develop manner (column 18, lines 44-47).

Claim 10

**Kret** disclosed a factory for producing [software]s (*column 7, lines 25-27; figures 1-2B*), the factory including:

an assembly line for creating new [software]s (*column 1, line 48 to column 2, line 7; figure 3*); and

an assembly line for modifying existing [software]s (*column 1, line 48 to column 2, line 7; figure 3*);

wherein each assembly line includes designers, developers and testers working along the assembly line, and wherein each assembly line includes quality controllers working along with the designers, developers, and testers (*column 1, line 48 to column 2, line 7; figure 3*).

**Kret** did not explicitly state middleware adapter. **Ross, Jr.** demonstrated that it was known at the time of invention to make use of middleware adapters in large software projects (column 18, lines 35-51). It would have been obvious to

one of ordinary skill in the art at the time of invention to implement the large software projects of **Kret** with middleware adapters as found in **Ross, Jr.**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to make all software modules of a large and diverse system available for effective communication (column 18, lines 40-41) in an easy to develop manner (column 18, lines 44-47).

Claim 11

**Kret** and **Ross, Jr.** disclosed the factory of claim 10 wherein the assembly line workers can be located in different parts of the world (*column 5, lines 39-44; figure 3; at least multiple locations*).

Claim 12

**Kret** and **Ross, Jr.** disclosed the factory of claim 11 wherein the assembly process is performed at a different factory location (*column 5, lines 39-44; figure 3; again multiple locations*).

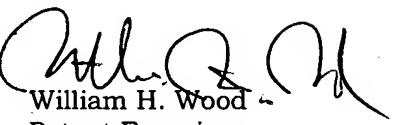
***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)-272-3756. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.



William H. Wood  
Patent Examiner  
AU 2193  
October 27, 2006